

**STATE OF MICHIGAN  
BEFORE THE MICHIGAN JUDICIAL TENURE COMMISSION**

**COMPLAINT AGAINST:**

**Hon. Michael J. Haley**  
86<sup>th</sup> District Court  
328 Washington Street  
Traverse City, MI 49684

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**FORMAL COMPLAINT NO. 77**

**COMPLAINT**

The Michigan Judicial Tenure Commission (“Commission”) files this complaint against Honorable Michael J. Haley (“Respondent”), 86<sup>th</sup> District Court Judge, Traverse City, Michigan. This action is taken pursuant to the authority of the Commission under Article VI, Section 30 of the Michigan Constitution of 1963, as amended and MCR 9.200 *et seq.* The filing of this Complaint has been authorized and directed by resolution of the Commission.

Respondent is, and at all material times was, a judge of the 86<sup>th</sup> District Court in Traverse City, Michigan. As a judge, he is subject to all the duties and responsibilities imposed on him by the Michigan Supreme Court, and is subject to the standards for discipline set forth in MCR 9.104 and MCR 9.205. Respondent is

charged with violating judicial and professional standards as set forth in the following paragraphs.

1. Respondent is, and at all material times was, a judge of the 86<sup>th</sup> District Court in Detroit, Michigan.

**COUNT I: Impropriety and/or the Appearance of Impropriety**

2. On October 14, 2003, Respondent presided over a plea hearing in Bellaire, Michigan, in the case of *People v Teresa Elizabeth Porter*, Case No. 03-1259-SM-3. Richard J. Benedict, Esq., represented Ms. Porter; Charles H. Koop, Esq. was the prosecuting attorney; and Officer Terry Skurnit was the court officer.

3. The defendant, Ms. Porter, while operating a vehicle owned by S&S Leasing, lost control of the vehicle, striking and damaging a florist's sign. The sign owner claimed it paid or was obligated to pay \$4,116.35 to repair the sign.

4. Ms. Porter was charged with two counts of operating a vehicle without security or insurance (MCLA 500.3102) and one count of using a vehicle with improper license plates (MCLA 257.2551).

5. A plea agreement was reached between Ms. Porter and the prosecutor whereby defendant Porter would enter a guilty plea to the improper plate charge and agree to make restitution for the damages to the sign. The original two charges against her, as well as similar charges against S&S Leasing Company would be

dismissed. The restitution amount was the only contested issue remaining, and that would be determined by the Court. The People were seeking \$4,100. The defendant argued the amount should be \$2,700.

6. Judge Haley accepted the guilty plea, stated on the record that a pre-sentence investigation and report would not be necessary and then advised that restitution would be determined at a formal hearing on November 6, 2003 or that the parties “could submit written materials in lieu of an actual hearing.”

7. Thereafter, Ms. Porter’s defense attorney, Mr. Benedict, asked Respondent, “Approach the bench?” without stating a reason for approaching.

8. Prosecutor Charles Koop also approached the bench.

9. Upon being given permission to approach the bench, Mr. Benedict placed two University of Michigan football tickets on the bench.

10. Prosecutor Charles Koop observed the tickets being placed on the bench and returned to his seat.

11. The following discussion ensued between Mr. Benedict and Respondent:

MR. BENEDICT: You got to promise to go.

THE COURT: It’s a week from Saturday?

MR. BENEDICT: No, Saturday.

THE COURT: This Saturday. Hmm, I could go.

MR. BENEDICT: Promise?

THE COURT: I promise to go? I've got to make a phone call. Today's Tuesday, where are you tomorrow?

MR. BENEDICT: The office. No, I'm in Kalkaska. If you want it, take it.

THE COURT: Okay. If there's anybody else that –

MR. BENEDICT: When you said you were interested, I indicated that I still have to ask another. If you can't go, somebody's got to go.

THE COURT: I'll make sure somebody goes and that you get paid.

MR. BENEDICT: I don't need to get paid.

THE COURT: Okay. All right.

MR. BENEDICT: I need to make sure there's [sic] two people sitting in the seats.

12. After the above exchange Respondent, who had continued to look at the file and concluded the only remaining issue was the amount of restitution the defendant was going to be assessed, stated, "I'll just sentence her right now and save you the trip back."

13. Mr. Benedict responded, "I don't know."

14. Respondent proceeded to sentence Ms. Porter to a fine of \$100, court costs of \$250, \$40 state fee, restitution (in an amount to be determined), and six months probation.

15. Respondent did not rebuff Mr. Benedict's offer, refuse the tickets, inform him of the impropriety of his action, or admonish him.

16. Respondent gave the tickets, valued at \$92.00, to a court employee.

17. Respondent ultimately determined the amount of restitution to be paid by the defendant to be \$4,116.35, the amount requested by the victim and the Prosecutor. He made the decision based on written materials submitted by the parties, without a hearing, on November 6, 2003.

18. The conduct described in paragraphs 1 through 17 constitutes:

- a. Misconduct in office as defined by Michigan Constitution 1963, Article VI, §30 as amended, MCR 9.205, as amended;
- b. Conduct clearly prejudicial to the administration of justice as defined by the Michigan Constitution 1963, Article VI, §30 as amended, MCR 9.205, as amended;
- c. Failure to observe high standards of conduct so that the integrity and independence of the judiciary may be preserved, contrary to the Code of Judicial Conduct, Canon 1;
- d. Irresponsible or improper conduct which erodes public confidence in the judiciary, in violation of the Code of Judicial Conduct, Canon 2A;
- e. Conduct involving impropriety and the appearance of impropriety, which erodes public confidence in the judiciary, in violation of the Code of Judicial Conduct, Canon 2A;
- f. Failure to conduct oneself at all times in a manner which would enhance the public's confidence in the integrity of the judiciary, contrary to the Code of Judicial Conduct, Canon 2B;
- g. Allowing family, social, or other relationships to influence judicial conduct or judgment, contrary to Canon 2C;

- h. Improper acceptance of a gift from a donor whose interests have come or are likely to come before the court, contrary to Canon 5C(4)(c);
- i. Conduct in violation of relevant portions of MCR 9.104 in that such conduct is: prejudicial to the administration of justice, contrary to MCR 9.104(1); exposes the legal profession or courts to obloquy, contempt, censure or reproach, contrary to MCR 9.104(2); contrary to justice, ethics, honesty or good morals, in violation of MCR 9.104(A)(3); and violates the standards or rules of professional responsibility adopted by the Supreme Court, contrary to MCR 9.104(4).

## **COUNT II: Misrepresentation/Lack of Candor**

19. Officer Skurnit told Detective Donald Snyder about the gift of football tickets he had witnessed. Detective Snyder told Prosecutor Koop what he had heard from Officer Skurnit. Prosecutor Koop in turn informed Respondent about the conversation Officer Skurnit had with Detective Snyder.

20. On October 31, 2003, Respondent spoke to Detective Donald Snyder. Respondent then wrote a letter to Sheriff Terry L. Johnson in which he banned Sergeant Skurnit, in apparent retaliation, from working in the 86<sup>th</sup> District Court, stating he behaved inappropriately.

21. Respondent also spoke to Sheriff Johnson and stated Sergeant Skurnit could not be trusted. In January 2004 Respondent reiterated to the sheriff his decision to ban Skurnitt from working in any of the 86<sup>th</sup> District Court judges' courtrooms.

22. In a letter from the Judicial Tenure Commission dated February 13, 2004, Respondent was asked to comment concerning the above-described incident and to provide copies of any correspondence, court orders or memos issued with respect to his decision to ban Officer Skurnit from the 86<sup>th</sup> District Court.

23. In his February 24, 2004 reply to the Commission's February 13 letter, Respondent falsely stated in paragraphs 13 and 18 that he had never written a letter to the Sheriff or anyone else about the matter. In paragraph 19 he again represented to the Commission that there were no writings because none were ever created or sent to anyone.

24. Respondent's statements were untrue.

25. The conduct described in paragraphs 19 through 24 constitutes:

- a. Misconduct in office as defined by Michigan Constitution 1963, Article VI, §30 as amended, MCR 9.205, as amended;
- b. Conduct clearly prejudicial to the administration of justice as defined by the Michigan Constitution 1963, Article VI, §30 as amended, MCR 9.205, as amended;
- c. Failure to observe high standards of conduct so that the integrity and independence of the judiciary may be preserved, contrary to the Code of Judicial Conduct, Canon 1;
- d. Irresponsible or improper conduct which erodes public confidence in the judiciary, in violation of the Code of Judicial Conduct, Canon 2A;
- e. Conduct involving impropriety and the appearance of impropriety, which erodes public confidence in the judiciary, in violation of the Code of Judicial Conduct, Canon 2A;

- f. Failure to conduct oneself at all times in a manner which would enhance the public's confidence in the integrity of the judiciary, contrary to the Code of Judicial Conduct, Canon 2B;
- g. Allowing family, social, or other relationships to influence judicial conduct or judgment, contrary to Canon 2C;
- h. Lack of candor constituting a failure to cooperate with a reasonable request made by the commission in its investigation of a judge; in violation of MCR 9.205(1)(f)
- i. Engaging in conduct involving dishonesty, deceit, and misrepresentation, reflection adversely on your honesty, trustworthiness, and fitness as a lawyer, in violation of Rule 8.4(b) of the Rules of Professional Conduct;
- j. Conduct in violation of relevant portions of MCR 9.104 in that such conduct is: prejudicial to the administration of justice, contrary to MCR 9.104(1); exposes the legal profession or courts to obloquy, contempt, censure or reproach, contrary to MCR 9.104(2); contrary to justice, ethics, honesty or good morals, in violation of MCR 9.104(A)(3); and violates the standards or rules of professional responsibility adopted by the Supreme Court, contrary to MCR 9.104(4).

Pursuant to MCR 9.209, Respondent is advised that an original verified answer to the foregoing complaint, and nine copies thereof, must be filed with the Commission within 14 days after service upon Respondent of the Complaint. Such answer shall be in a form similar to the answer in a civil action in a circuit court and shall contain a full and fair disclosure of all the facts and circumstances pertaining to Respondent's alleged misconduct. The willful concealment,



misrepresentation, or failure to file such answer and disclosure shall be additional grounds for disciplinary action under the complaint.

JUDICIAL TENURE COMMISSION  
OF THE STATE OF MICHIGAN  
3034 W. Grand Boulevard, Suite 8-450  
Detroit, MI 48202

By: \_\_\_\_\_  
Paul J. Fischer (P 35454)  
Examiner

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Anna Marie Noeske (P 34091)  
Associate Examiner

Dated: November 18, 2004

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